



**SUPREME COURT OF CALIFORNIA
ORAL ARGUMENT CALENDAR
SAN FRANCISCO SESSION
FEBRUARY 8, 2011**

FIRST AMENDED

The following cases are placed upon the calendar of the Supreme Court for hearing at its courtroom in the Earl Warren Building, 350 McAllister Street, Fourth Floor, San Francisco, California, on February 8, 2011.

TUESDAY, FEBRUARY 8, 2011—9:00 A.M.

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| (1) | S172023 | Poosh v. Philip Morris USA, Inc., et al.
<i>(To be called and continued to a future oral argument session.)</i> |
| (2) | S178799 | Cabral v. Ralphs Grocery Company |
| (3) | S178320 | In re Baycol Cases I and II |
| (4) | S175615 | People v. Hernandez (Arturo Jesus) |

1:30 P.M.

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| (5) | S110541 | People v. Murtishaw (David Leslie) [Automatic Appeal] |
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CANTIL-SAKAUYE
Chief Justice

If exhibits are to be transmitted to this court, counsel must apply to the court for permission. (See Cal. Rules of Court, rule 8.224(c).)

**SUPREME COURT OF CALIFORNIA
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The following case summaries are issued to inform the public and the press of cases that the Supreme Court has scheduled for oral argument and of their general subject matter. Generally, the descriptions set out below are reproduced from the original news release issued when review in each of these matters was granted and are provided for the convenience of the public and the press. The descriptions do not necessarily reflect the view of the court or define the specific issues that will be addressed by the court.

TUESDAY, FEBRUARY 8, 2011—9:00 A.M.

(1) Pooshs v. Philip Morris USA, Inc., et al., S172023 (To be called and continued to a future oral argument session.)

#09-27 Pooshs v. Philip Morris USA, Inc., et al., S172023. (9th Cir. No. 08-16338; 561 F.3d 964; Northern District of California; 3:04-cv-01221-PJH.) Request under California Rules of Court, rule 8.548, that this court decide a question of California law presented in a matter pending in the United States Court of Appeals for the Ninth Circuit. As restated by the court, the question presented is: “When multiple distinct personal injuries allegedly arise from smoking tobacco, does the earliest injury trigger the statute of limitations for all claims, including those based on a later injury?”

(2) Cabral v. Ralphs Grocery Company, S178799

#10-05 Cabral v. Ralphs Grocery Company, S178799. (E044098; 179 Cal.App.4th 1; Superior Court of San Bernardino County; RCV089849.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case presents the following issues: (1) Does a big-rig truck driver owe a duty of care to freeway motorists not to park for non-emergency reasons in an “Emergency Parking Only” area at the side of a freeway? (2) Was the driver’s act of parking in the “Emergency Parking Only” area not a substantial factor, as a matter of law, in causing plaintiff’s injuries in this case?

(3) *In re Baycol Cases I and II*, S178320

#10-20 *In re Baycol Cases I and II*, S178320. (B204943; nonpublished opinion; Superior Court of Los Angeles County; JCCP4217.) Petition for review after the Court of Appeal reversed in part the judgment in a civil action and otherwise dismissed the appeal. This case presents the following issue: Did the “death knell doctrine” require plaintiff to immediately appeal the sustaining of a demurer as to class claims when the ruling resolved both individual and class claims, or did the one final judgment rule apply and require a single appeal from the subsequent entry of final judgment on all claims?

(4) *People v. Hernandez (Arturo Jesus)*, S175615

#09-53 *People v. Hernandez (Arturo Jesus)*, S175615. (A119501; 175 Cal.App.4th 940; Superior Court of Contra Costa County; 050707604.) Petition for review after the Court of Appeal reversed a judgment of conviction of a criminal offense. This case presents the following issue: Did the trial court abuse its discretion in requiring a uniformed, armed deputy sheriff to stand or sit immediately behind the defendant during his testimony?

1:30 P.M.

(5) *People v. Murtishaw (David Leslie)*, S110541 [Automatic Appeal]

This matter is an automatic appeal from a judgment of death.